IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 11291 of 1998

Between:

Basappa S/o.Lingappa, aged about 46 years,

Occu:Junior Assistant (Under Orders of Dismissal)

Office of the Deputy Executive Engineer (Housing),

Chevalla Division, Ranga Reddy District, R/o.Chengol

Village, Ranga Reddy District.

... PETITIONER

AND

1) The Collector/Executive Director, Housing,

Rangareddy District, at Hyderabad.

2) The Managing Director,

Andhra Pradesh State Housing Corporation, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records pertaining to Proceedings No.A2/2572/95-1, dated 28.08.1997 and set aside the same as illegal, arbitrary, unconstitutional, without jurisdiction, void-ab-initio and violative of Articles 14, 16 and 21 of the Constitution of India, by issuance of writ, order or direction essentially in the nature of writ or certiorari and consequently hold that the petitioner herein is entitled to be reinstated in service as Junior Assistant with all consequential benefits and attendant benefits such as

arrears of salary, seniority etc.

Counsel for the Petitioner: MR.P.R.PRASAD

Counsel for the Respondents: MR.V.CH.NAIDU, STANDING COUNSEL FOR HOUSING CORPORATION.

The Court made the following :

O R D E R:

1) This Writ Petition is filed seeking a writ of certiorari, to call for the records pertaining to the proceedings No.A2/2572/95-1, dated 28.08.1997, issued by the second respondent, and quash the same and for consequential direction.

2) The petitioner contends that he was appointed as Junior Assistant under the control of the first respondent. While so, he was placed under suspension through the proceedings No.A/SHC/395/91, dated 20.08.1994. Six months thereafter, the petitioner was issued with a charge memo in proceedings No.A/SHC/ESTT/1433/94, dated 22.03.1995, framing, in all, six charges. The petitioner filed his explanation, dated 23.05.1995, to the said charge memo. Thereafter, basing on the alleged report of the enquiry officer, the first respondent issued a show-cause notice No.A2/2572/95-1, dated 25.06.1997. The petitioner also contends that without conducting any enquiry, as contemplated under the A.P. State Housing Corporation Employees Service Rules (for short “the Rules”), straight away a show-cause notice, dated 25.06.1997 was issued to him, and thereafter, the second respondent dismissed him from service through the impugned proceedings, which is arbitrary and illegal. He further contends that the respondents have violated the rules, and therefore, the order of dismissal does not stand the scrutiny of law and the same is liable to be declared as null and void and also violative of Articles 14, 16 and 21 of the Constitution of India.

3) From a perusal of the impugned proceedings dated 28.08.1997, it is clear that no detailed enquiry was conducted against the petitioner and also no procedure was followed for taking such a disciplinary action of dismissal from service, which is a major punishment, as required under the rules. Sri V.Ch.Naidu, the learned standing

counsel for the respondent- corporation, on verification of the record, which is placed before the Court, is unable to point out as to what was the detailed enquiry conducted in this regard as per the rules. The record shows that the basis for the issuance of the show cause notice was only a preliminary enquiry conducted in this regard. Therefore, I am of the considered opinion that the impugned order suffers from patent illegality and does not stand scrutiny of law and the same is liable to be set aside. Therefore, the impugned order passed by the second respondent is set aside.

4) The writ petition is allowed accordingly. No costs.

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30th July, 2004

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ASST.REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) The Collector/Executive Director, Housing,

Rangareddy District, at Hyderabad.

2) The Managing Director,

Andhra Pradesh State Housing Corporation, Hyderabad.

3) Two C.D.copies.